HONOURABLE SRI G.S.SINGHVI

THE CHIEF JUSTICE

AND

HONOURABLE SRI JUSTICE

R.SUBHASH REDDY

-

WRIT APPEAL No. 2584 OF 2005

Between:

Grandhi Madhava Rao (died)

Per LRs.

… Appellants

And

The Municipal Commissioner,

Eluru Municipality, Eluru,

West Godavari District.

… Respondent

::JUDGMENT::

Counsel for appellants : Smt. N (P) Anjana Devi

Counsel for respondent : Sri S.Nageswara Reddy

29th December, 2005

Per G.S.Singhvi, C.J.

This is an appeal for setting aside order dated 11.11.2005 passed by the learned Single Judge whereby he dismissed writ petition No.12214 of 2000 filed by the appellants for quashing communication dated 4.7.2000 vide which Commissioner, Eluru Municipality rejected the representation of the appellants and called upon them to remove the alleged illegal/unauthorised construction.

Ordinarily, we would have examined the points raised in the appeal in detail and then decided whether the order under appeal suffers from an error apparent warranting interference by the Division Bench, but the necessity of doing so has been obviated because, on being told by the court that communication dated 4.7.2000 is ex facie faceless and devoid of reasons, and, therefore, legally unsustainable, learned counsel for Municipal Commissioner, Eluru Municipality, fairly stated that the competent authority would pass fresh order after considering explanation dated 25.6.2000 submitted by the appellants.

In view of the statement made by the learned counsel for respondent, the appeal is allowed. The order of the learned Single Judge is set aside. As a corollary, the writ petition filed by the petitioner shall stand allowed and communication dated 4.7.2000 quashed with liberty to the competent authority to pass fresh order after considering the explanation submitted in response to notice dated 13.6.2000.

Since the issue involving the alleged illegal or unauthorized construction made by the appellants has remained pending for more than five years and a half and they have been subjected to three rounds of litigation, we deem it appropriate to direct the competent authority to decide the matter afresh within a maximum period of three months by passing a speaking order.

Needless to say that after setting aside communication dated 4.7.2000, the municipal authorities shall not be entitled to demolish the alleged illegal/unauthorized construction made by the appellants. Of course, this direction will operate till passing of the fresh order by the competent authority.

G.S.SINGHVI, C.J.

29.12.2005.

R.SUBHASH REDDY, J.

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